

Thursday,  
10th May, 1883

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

LAWS AND REGULATIONS

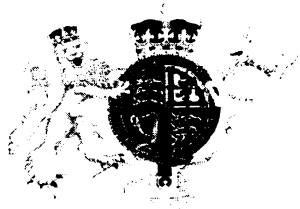
Vol. XXII

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**ABSTRACT OF THE PROCEEDINGS**  
**OF**  
**THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA**  
**ASSEMBLED FOR THE PURPOSE OF MAKING**  
**LAWS AND REGULATIONS**

**1883**

**VOLUME XXII**



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*Abstract of the Proceedings of the Council of the Governor General of India,  
assembled for the purpose of making Laws and Regulations under the  
provisions of the Act of Parliament 24 & 25 Vic., cap. 67.*

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The Council met at Government House, Simla, on Thursday, the 10th May,  
1883.

PRESENT :

His Excellency the Viceroy and Governor General of India, K.G., G.M.S.I.,  
G.M.I.E., *presiding*.

His Honour the Lieutenant-Governor of the Panjá, K.C.S.I., C.I.E.

His Excellency the Commander-in-Chief, G.C.B., C.I.E.

Major the Hon'ble E. Baring, R.A., C.S.I., C.I.E.

Lieutenant-General the Hon'ble T. F. Wilson, C.B., C.I.E.

The Hon'ble C. P. Ilbert, C.I.E.

The Hon'ble Sir S. C. Bayley, K.C.S.I., C.I.E.

The Hon'ble T. C. Hope, C.S.I., C.I.E.

The Hon'ble W. W. Hunter, LL.D., C.I.E.

The Hon'ble J. W. Quinton.

NORTH-WESTERN PROVINCES AND OUDH LOCAL BOARDS  
BILL.

The Hon'ble MR. QUINTON moved for leave to introduce a Bill to provide for the constitution of Local Boards in the North-Western Provinces and Oudh. He said :—

“ My Lord,—I have the honour to move for leave to introduce a Bill to provide for the constitution of local bodies in each district of the North-Western Provinces and Oudh, to administer the expenditure of that portion of the rates levied on land which is applicable to local purposes in that district, and of the income accruing from certain other sources of revenue which may from time to time be made applicable to like purposes.

“ The object of the Bill is to give effect to the views of the Government of the North-Western Provinces and Oudh on the subject of local self-government as enunciated in the Resolution of that Government, dated Lucknow, 5th December 1882, and published, together with the letter of the Home Department conveying the general approval of the Government of India of Sir Alfred Lyall's proposals, in the Local and Imperial Gazettes during the same month.

“ The law at present in force in the North-Western Provinces and Oudh does not admit of these proposals being fully carried out. The levy of rates in the United Provinces is authorised by Acts III and IV of 1878. Those Acts prescribe rigidly the proportions in which the rates levied under them are to be allotted by the Local Government to each district, and direct the appointment of district committees for the purpose of assisting in determining how the allotments shall be applied, and in the supervision and control of the expenditure of such allotments; but they leave the appointment of the district committees and the definition of their functions and authority altogether in the hands of the Local Government; they allow of the number of members of each committee being so small as six, and of half even of this small number being Government officers; and they enable the Local Government to divert to general provincial objects all balances of the annual allotments remaining unexpended at the close of each year.

“ The duty, therefore, devolves on me of asking from the Council leave to introduce Bills which will remove these obstacles to giving effect to the Resolution interposed by the existing law, and substitute for it enactments under which the proposals of the Local Government can be brought into operation.

“ With a few exceptions, on which I need not dwell, as there will be ample opportunity for discussing them in Committee, the Bill embodies and throws into legislative form the recommendations of the Resolution.

“ Those proposals have been the subject of long and careful deliberation with the Government of the North-Western Provinces and Oudh. During the rainy season of last year, under instructions from His Honour the Lieutenant-Governor and Chief Commissioner, District and Divisional Officers put themselves in communication with the leading non-official gentlemen of their respective charges, including the members of municipal and district committees. Meetings were held at tahsils by Collectors or their Assistants, and at headquarter stations by Commissioners. The points on which the Government wished for information were fully discussed at these meetings and elsewhere, and the outcome of the meetings and discussions was a mass of reports filling more than 300 closely printed pages. In August, the Lieutenant-Governor convened a large committee at Naini Tal, presided over by the Senior Member of the Board of Revenue, and having on it as members three Commissioners of Divisions, four District Officers, the heads of the Police and Educational Departments, two officers of the Secretariat, one of whom—Mr. Woodburn—had been a Deputy Commissioner of long experience and great efficiency in Oudh, and four distinguished Native gentlemen, one of them—Hon'ble Rájá Sivá Prasád—a Member of this Council,

“ To this Committee were referred for consideration and report the Resolutions of the Government of India on the subject of local self-government and the orders of the Local Government on the subject of those Resolutions, the reports of Divisional and District Officers to which I have above alluded, and a draft Bill embodying such provisions of Acts III and IV of 1878, and Act XV of 1873, as seemed *primâ facie* applicable to the new arrangements.

“ The report of this Committee is dated the 30th September, and its labours are thus characterised by the Local Government :—

‘ To this Committee Sir Alfred Lyall is much indebted for clear and well-reasoned conclusions upon all the principal matters referred for deliberation, especially upon the methods best adapted in the present circumstances of the country for carrying out the policy of local self-government as declared by His Excellency the Governor General in Council.’

“ Then followed the Resolution of the 5th December recorded by the Local Government, accepting, with certain modifications, most of the recommendations of the Committee. Bills were drafted to effect the necessary legislative changes, which when finally approved of were forwarded to the Government of India; but the Council towards the close of the Calcutta session was so much occupied with more pressing business, that there was no time available for the consideration of those measures; and I am only now in a position to introduce the Bills as revised by the Legislative Department.

“ The North-Western Provinces and Oudh Local Boards Bill, as its preamble already quoted sets forth, provides for the constitution of local bodies, in supersession of the existing district committees, to administer the expenditure of that portion of the rates levied on land which is applicable to local purposes in that district, and of the income accruing from certain other sources of revenue which may, from time to time, be made applicable to the purposes.

“ The first, and perhaps most important, point dealt with is the constitution of these boards.

“ Power is given by section 3 to the Local Government to divide, for the purposes of the Act, each district into sub-districts, which will generally correspond with tahsils; and section 4 establishes for each sub-district a local board having authority over that sub-district, and for each district a district board having authority over the entire district (cantonments and municipalities excepted); while sections 23 and 24 define the relations of local boards to district boards, and the mode in which control by the former is to be exercised by the latter. The arguments in favour of this are stated by the Local Government in the following passage which I extract from the Resolution of December, 1882 :—

‘ But for the Provinces generally, the Lieutenant-Governor quite agrees with the arguments in favour of making the *arēa* of each subordinate board’s jurisdiction coterminous with a tahsil; and this plan has accordingly been adopted. On the one hand, the

formation of representative boards for the chief subordinate divisions of each district will ensure better knowledge of, and attention to, local wants, more regular attendance at board meetings, closer supervision over the departments under local management, and prompter and more effective execution of local works, than is possible with a single district board meeting only at headquarters. On the other hand, to make separate and independent units of local administration within each district would tend to break up piecemeal the organisation of the district; and while increasing the necessity for, would throw serious difficulty in the way of, the constant exercise of central direction and control. For it must be admitted that there is little or no prospect of obtaining for sub-divisional boards throughout the Provinces, or even in different parts of many districts, an equal standard, or anything like a level, of general intelligence and working capacity. To set up all these boards as separate administrative bodies would be to accept the risk of great and confusing variety in the results of their administration—a risk that would be greatest in the remote and backward tracts where intelligence and energy are often most required, and where these qualities are of course least likely to be available on the spot. The business of settling matters of finance and adjusting public interests between the several sub-divisional boards concerned in them would cause much correspondence, and would lead to the multiplication of petty offices, with the probable consequence of wasting much money and time on establishments, and in the preparation, submission and scrutiny of returns and reports. The plan of making the central district board an aggregate of the sub-divisional boards is, on the contrary, in many ways favourable to the adjustment of the mutual relation between the various subordinate boards and between them and the central board; while it appears to be the best arrangement for maintaining a consistent and systematic administration of local affairs throughout the district. Moreover, upon no other system could the minor bodies generally rely upon securing the membership of the leading men within their jurisdiction; while lastly, the plan has the great advantage of reducing to a minimum the necessity for official superintendence and interference. If the sub-divisional boards were independent, the expedient of placing them in different classes for the purpose of graduating their powers according to the circumstances and conditions of different parts of the Provinces and of districts would in the beginning probably be unavoidable. But all such intermediate classifications are apt to affect the simplicity of the broad groundwork and fundamental principle of self-government; and the Lieutenant-Governor infinitely prefers that the district board, which will be by far the best judge of the claims and capabilities of each section of its own body, should delegate the proper degree of power and allot the requisite amount of funds to each interior circle. It will be for the district board, as composed of members representing all parts of the district, to act, after full consultation, upon the system thus sketched out, and to draw up a scheme explaining the arrangements made for distributing the work of local administration to its various subordinate boards, and adjusting their mutual relations.

“ I may add that the tahsil is in the North-Western Provinces the smallest unit of revenue-administration; that its area is rarely altered; that it is well known to all residents within it; and that it corresponds generally with the boundaries of the topographical division of the country known as parganas.

“ The constitution of local bodies being thus provided for, the next step was to determine the method of appointing the members of these boards. Sec-

tions 5 and 6 lay down the following broad rules :—At least three-fourths of the members of each local board must be persons residing or owning landed property, or carrying on trade or business, in the sub-district, and must be *chosen by election*. The remaining fourth may be appointed directly by the Local Government.

“ As to the mode of election, Sir Alfred Lyall writes in paragraphs 7 and 8 of the Resolution :—

‘ Whether, and to what extent or proportion, the membership of the boards should be determined by election was specially referred for inquiry and opinion to all the districts of the Provinces; the point was discussed in every district with the result described in the district and divisional reports; and, as is shown in the Committee’s report, it was closely debated by the Provincial Committee. The large towns are much alike everywhere; they are always centres of comparative wealth and intelligence; they form constituencies easily represented, and their administration is always open to public observation and criticism. But the ordinary Indian districts possess none of these characteristics, and, as far as can be judged from these papers, the balance of Native opinion preponderates decidedly against the unrestricted introduction into them of the elective system. Such a step certainly appears inadvisable at the present time, when the state of society varies so widely in different parts of the country, when the whole principle of self-government is novel and imperfectly understood, and when the practice of general election is not only unknown outside the towns, but is apparently not in accord with the feelings and ideas of those classes of the community that have the largest interest in local self-government, and to whom we must look for its success. It is manifest that local self-government—meaning a system of administration by the gratuitous exertions of persons best acquainted with the characteristics of the neighbourhoods in which they are interested, and possessed of means, leisure and public spirit enabling and impelling them to devote themselves to that administration—cannot be initiated and developed into real independence except by the co-operation of these classes, represented by men who can lead and will be trusted by the community at large. This is how all systems of local representation have begun in all times and countries; so that it would be remarkable if in such a country as India the best way of beginning were found to be by popular suffrage. That the services of such men could be secured by open election, that they themselves would seek election or would generally allow their names to be submitted for the purpose, seems from all the information hitherto collected to be questionable. If, therefore, we find that the views and prepossessions, as far as they have been elicited, of persons qualified to form a judgment on the best mode of initiating local self-government in the extensive districts of these Provinces are largely in favour of leaving at the outset the constitution of the local boards more or less in the hands of the Government, there seems to be no sufficient reason for endeavouring, almost on the spur of the moment, to invent any such elective machinery as would necessarily raise numerous and various questions of franchise and voting rights, and all the practical difficulties inseparable from the attempt to adjust an arbitrary system to the diverse circumstances of the country. In short, the solid and universally recognised fact that local self-government depends absolutely for its success upon the character and ability of those to whom it is entrusted has led the Lieutenant-Governor and Chief Commissioner to the conviction that, in inaugurating the policy in the districts,

a system of careful and consultative nomination by Government of the electoral body is preferable to election by untried and unfamiliar methods. Sir Alfred Lyall believes that this conclusion is supported by the judgment, and conforms to the present wishes of a large majority of the people.

‘Having regard, then, to the extreme importance of placing in competent hands the duties and responsibilities of district administration in the beginning of what is avowedly an experiment, and to maintain the continuity of existing arrangements which imply (in such matters as, for example, education and sanitation) a standard of civilisation in advance of the average intelligence and culture of Native society, the Lieutenant-Governor and Chief Commissioner has decided to adopt in principle the recommendation formulated in the 9th paragraph of the Provincial Committee’s report. The Committee proposed that the Government should nominate for each tahsil an electoral body which should elect a certain number of its members to form the tahsil or sub-divisional board. They advised also that a minimum qualification (on the basis of land-revenue or license-tax assessment) should be fixed, and that details might be left to be settled by local officers. But the differences in the distribution of the population, of wealth and of property in land between and within different districts are so large and manifold, that, after much examination of the question, it has been found impracticable to fix any comprehensive qualification for election purposes, much less to devise methods of canvassing and election that would be everywhere applicable or universally acceptable. The only comprehensive plan that can be laid down at the first introduction of the system is to determine, with reference to the area, revenue and tenures, population, wealth, and to other conditions and special features of each sub-division, how many persons, not being salaried officers of the Government, would fairly represent its inhabitants and interests. The District Officer must then be empowered to prepare in each district the measures that may be most convenient and appropriate to its circumstances and peculiarities for ascertaining how many suitable persons are available in its sub-divisions and how they can best be chosen. The proceedings taken will be reported to the Government, and the lists of electors that are drawn up will be duly placed on record. As soon as the lists are complete, the electors will be asked to return from among their own body, by such method as may seem appropriate or necessary, the members of the sub-divisional board, who will hold office for a term of three years.’

‘A section will be found in the Bill enabling the Local Government to introduce this system; and any abuse of the power conferred in the direction of limiting the number of electors is guarded against by the proviso that the persons entitled to vote at the election of a member of a local board shall not be less than twenty-five. In addition to the elected members, at least one-fourth may be directly appointed by Government. This principle, my Lord, has been already accepted by the Council in the case of the Central Provinces, and the reasons for it were put forth with great eloquence and force in the debate on the Local Self-Government Bill for those Provinces on the 12th of January last, by the Hon’ble Sayyad Ahmad Khan, a Native gentleman whose ripe experience, broad views, sympathy with his countrymen and disinterested and successful efforts for their enlightenment must always attach the



highest weight to his opinions. I shall read to the Council merely the concluding words of the hon'ble member's speech on the subject :—

'In a country like India, where caste-distinctions still flourish, where there is no fusion of the various races, where religious distinctions are still violent, where education in its modern sense has not made an equal or proportional progress among all sections of the population, I am convinced that the introduction of the principle of election, pure and simple, for representation of various interests on the local boards and the district councils, would be attended with evils of greater significance than purely economic considerations. So long as differences of race and creed and the distinctions of caste form an important element in the socio-political life of India, and influence her inhabitants in matters connected with the administration and welfare of the country at large, the system of election, pure and simple, cannot be adopted. The larger community would totally override the interests of the smaller community, and the ignorant public would hold Government responsible for introducing measures which might make the differences of race and creed more violent than ever.'

Section 6 of the Bill provides that ordinarily the district board shall consist of *all* persons who for the time being are members of the local boards of the sub-district comprised in that district. This provision is in accordance with the views of the Local Government and of the Provincial Committee, who consider that under any other system leading Native gentlemen would not consent to take office, and that any distinction drawn, or supposed to be drawn, in point of position and dignity between membership of the local board, on the one hand, and the district board on the other, would certainly occasion much unpleasantness, besides inducing an element of friction which is manifestly undesirable in the public interests. Power has, however, been reserved to the Local Government to direct that local boards shall elect delegates to represent them on the district board—a power to be exercised in cases when the district board constituted in the ordinary way would be too numerous a body for the efficient transaction of business.

"I need not detain the Council with the details of the arrangement made in sections 7 to 12 respecting the term of office, the resignation and removal of members of the boards, the filling of casual vacancies and such matters, which will doubtless be fully discussed in Committee, but pass on at once to the provisions for the appointment of chairmen of the local and district boards.

"It is quite clear that, in a board composed mainly of non-official members new to the work, much of its efficiency will depend on the choice of a chairman, whose functions will be to hold the balance among parties and to guide discussions, and with whom will practically rest the initiation and control of ordinary business. As regards local boards, the Bill is in accordance with the views of the Local Government, which allows them to elect one of their members to be chairman for one year. A majority of the Provincial

Committee considered that it would be sufficient for boards to elect a chairman at each meeting, but His Honour the Lieutenant-Governor was of opinion that some element of permanency in the office of president of the local boards would be necessary at first for the proper transaction of business, and in order to preserve continuity of administration and uniformity of procedure. Fresh elections of chairmen at each meeting of the board would open a door to much change and contention, since any decided difference of opinion on matters before the board might lead to a contest at each meeting over the election of a chairman.

“The appointment of a chairman to a *district* board is, however, a matter of much greater importance, and has everywhere been warmly debated. The views of Sir Alfred Lyall have been expressed on it at some length, and I give them in his own words. They have been substantially thrown into legal form in the 14th section of the Bill:—

‘Upon the third point of importance in the constitution of the district and sub-divisional boards, namely, the appointment of their chairman, the Lieutenant-Governor and Chief Commissioner observes that the question of the chairmanship of the district board was the subject of prolonged discussion by the Provincial Committee. Their finding coincides in principle with the opinions and prepossessions generally elicited by the district inquiries, and recorded in the district and divisional reports. Of the four Native members of the Provincial Committee, three strenuously insisted upon the necessity for maintaining by law the chief District Officer as chairman of the district board. The fourth—a gentleman of large property and influence in his own district—held a different opinion; though it may be added that, while he is said to be exceedingly well fitted for the chairmanship, he had nevertheless declined the office in his own district on the grounds of indifferent health, want of leisure and residence at a distance from head-quarters; and the district and divisional reports, which, in the Lieutenant-Governor’s opinion, evince on the part of the writers a most satisfactory disposition to interpret the genuine feeling and wishes of the people, indicate clearly that the main current of Native opinion runs decidedly toward maintaining the position of the chief District Officer at the head of local affairs, until some experience in the transaction of public business and the management of committees has been gained by leading members of the Native community. It is, beyond doubt, expedient that the district board should be exempt from official pressure and unnecessary interference; but the Lieutenant-Governor is confident that in these Provinces all District Officers are thoroughly prepared to give every facility and aid to the policy of the Supreme Government, and to promote whatever measures may be adopted for its introduction. There is accordingly, in Sir Alfred Lyall’s opinion, no reason why due weight should not attach to the able and impartial reports of the officers best qualified to inform and advise their Government when they declare that the Native community, so far as it has been consulted, has expressed itself very widely in favour of retaining for the present the District Officer as chairman of the district board. It seems that the District Officer is preferred and trusted in the existing complexion of local affairs and feelings for sound and practical reasons. There can be no question that the experience and business habits of an official chairman will at first be of great assistance to the district boards; and there must also

be borne in mind the strong probability that the boards will for a time need much direction and advice, possibly even admonition and control; especially where distinctions of creed or caste, or other differences, still keep alive the germs of antagonism among sections of the Native community.

\* \* \* \* \*

‘But \* \* \* the middle course recommended by the Committee in the 12th paragraph of their report, which course the Lieutenant-Governor and Chief Commissioner has decided, with a slight amendment, to adopt, will further test the wishes of the country, and will allow time for opinion to form and show itself among the district boards themselves. The Committee recommend that the District Officer shall be *ex-officio* chairman of the district board, except when the board, on application made to the Government by a majority of the members, receives permission to elect a non-official chairman from their own body. The Lieutenant-Governor and Chief Commissioner agrees to the principle, with this modification, that, as soon as all the members of the district boards shall have been chosen, or at some time before the end of the present official year, they shall be invited to assemble for the purpose of deciding whether they wish to proceed to the election of a non-official chairman, or whether they will leave their chairman’s appointment in the hands of the Local Government.’

\* \* \* \* \*

“This concludes all the remarks which it seems to me necessary at present to offer on the constitution of the district and local boards. Section 25 of the Bill provides for the appointment of joint committees of two or more district boards for any purposes in which they may be jointly interested—a provision necessary to secure the due consideration of projects which affect large tracts of country.

“The duties to be performed by district boards will be found enumerated in section 22 of this Bill. These principally consist of the management construction, repair and maintenance of public roads, wells, tanks, ferries, cattlepounds, schools, hospitals, dispensaries and other public institutions of a like nature. The district boards will delegate to the local boards authority to deal with all or any of these matters within their respective jurisdictions, and thereby, it is hoped, secure the application to such duties of that local knowledge and local interest which should prove the best guarantee for their efficient fulfilment, controlled by the wider experience of the larger body. I may mention here that section 60 of the Bill amends the Northern India Ferries Act of 1878 by inserting a new section enabling the Lieutenant-Governor and Chief Commissioner to direct that any ferry shall be managed by the district board, and that its proceeds, in whole or in part, shall be paid into the district fund.

“For the performance of these duties, boards are authorised to appoint their own servants, under certain restrictions deemed necessary to guard against extravagance and inefficiency; and by section 35 of the Act they are placed in possession of funds to meet the charges which such duties involve.

“Immediately on their constitution they will receive the balances of all allotments made to the district which remain unexpended on that date; and in future such allotments, the amounts of which I would remind the Council are prescribed by law, will be made over to them, and with the proceeds of the other sources of revenue enumerated in section 35 will constitute a district fund at the disposal of the district committee. Under the present system, there is practically no district fund, for all balances unexpended at the close of the year are swept into the general Provincial Exchequer, and the districts are left with empty treasuries until they receive fresh allotments. This will be no longer possible, and the district committees will be able to carry on their administration from year to year with an accurate knowledge of their financial condition. Their revenues will not at first be large, and an important part of them will consist of assignments made from the general provincial funds; but it will doubtless be in the power of the boards to augment them to some extent by closer supervision of the management of the other sources of income enumerated; and, as they approve their fitness to administer the funds at their disposal, the Local Government will not be backward in increasing its assignments.

“The next point of importance in the Bill is that of control, and on this, I am happy to say, there is no necessity for me to dwell. The principle has been adopted by the Council in the Central Provinces Local Self-government Bill, and the reasons for insisting on it were urged by my hon'ble friends Messrs. Ilbert and Crosthwaite with unanswerable force in the debate on that measure. Their speeches are fresh in the ears of the Council.

“In this Bill the powers of control reserved to the Local Government are almost identical with those conferred upon the Chief Commissioner by the Central Provinces Act, with the exception that, in case of any single resolution, order or act of the committee being in excess of the powers conferred upon it by law, we enable the Commissioner of the Division and the Local Government to deal with such in the same manner as with proceedings likely to lead to a serious breach of the peace, or to cause serious injury or annoyance to the public or to any class or body of persons; *i.e.*, the Commissioner may in such a case suspend action, and, if he does so, must forward the order, with a statement of his reasons for making it, to the Local Government, which may thereupon rescind the order, or direct that it continue in force with or without modification, permanently or for such period, as it thinks fit. I am aware that, under the general law of the land, an injunction might be obtained by any person interested to restrain such an excess of powers; and it is, no doubt, true that section 42 of the Bill enables the Local Government, with the previous approval of the Governor General in Council, to supersede a board if it exceed its powers; but recourse to a Court of law is not a remedy

likely to commend itself to an ignorant and apathetic population, and supercession is a penalty to which the Local Government would naturally wish to resort only as an extreme measure, and one the frequent application of which it would be reluctant to put in force.

“ The last point with which I need trouble the Council refers to the provisions of section 50, which enable the Local Government to except a district or any part thereof from all or any of the provisions of this Bill to which it considers that they are unsuited. The North-Western Provinces and Oudh extend over an area of 100,111 square miles, nearly equal to, and contain a population of 4,400,000, far in excess of, that of the United Kingdom. They comprise 49 districts, with a mean density of population per square mile, varying from 894 in Banáras to 62 in Garhwal, inhabited by heterogeneous races characterised by differences of customs and religions and habits of thought, and stages of civilization ranging from the learned and accomplished Pandits of Banáras and Maulvís of Lucknow to the boors of Bundelkhund, the wild tribes of the Khadir and the barbarous Tharus of the Taráí.

“ It is impossible to assume that for such various races any one form of self-government will be equally suited or that intelligent non-official agency can be found in every district of these broad Provinces; and for exceptional cases of this nature sections 50, 51, and 52 are meant to provide. They do not even in such cases deprive the residents of all voice in the management of their local affairs, and they require that even here district committees must be appointed; but, following the present law, they leave the nomination of members of such committees altogether in the hands of Government, subject to the restriction that one-half shall be owners or occupiers of land or residents in the district; and they do not require, as elsewhere, the establishment of local boards. A similar power unaccompanied by the restriction I have pointed out is given to the Chief Commissioner by the Central Provinces Act.”

The Motion was put and agreed to.

The Hon'ble MR. QUINTON introduced the Bill.

The Hon'ble MR. QUINTON also moved that the Bill and Statement of Objects and Reasons be published in the *Gazette of India*, and in the *North-Western Provinces and Oudh Government Gazette* in English and in such other languages as the Local Government might think fit.

The Motion was put and agreed to.

NORTH-WESTERN PROVINCES AND OUDH MUNICIPALITIES  
BILL.

The Hon'ble MR. QUINTON also moved for leave to introduce a Bill to make better provision for the Organisation and Administration of Municipalities in the North-Western Provinces and Oudh. He said :—

“ My Lord, I have the honour to move for leave to introduce a Bill to make better provision for the Organisation and Administration of Municipalities in North-Western Provinces and Oudh.

“ Municipalities in these Provinces are at present constituted, and guided in the performance of their duties, by the provisions of Act XV of 1873. That enactment confers upon the Local Government very full powers as to the appointment of ordinary and *ex-officio* members. It leaves to the Government to determine absolutely in the case of every municipality in the United Provinces whether the members shall be chosen by election or nominated by Government; and it further enables the Government to appoint *ex-officio* members one-third of the whole committee. The manner of election, where elections are allowed, is under the Act regulated solely by the Local Government, without any obligation of consulting the persons most concerned, and casual vacancies among the members are filled up by the same authority, or are not filled up at all, at its pleasure.

“ Further, the Local Government may appoint the president or vice-president of every committee (section 10), and may unconditionally cancel, suspend or limit any of the proceedings, bye-laws or rules of the committees, and abolish (section 29) any tax imposed by them. Section 34 of Act XV of 1873 imposes on the municipality the duty of providing for the maintenance of a police-establishment *without any limitation*, the effect of which has been to throw on municipalities a larger portion of the cost of police maintained within municipal boundaries for the preservation of the peace and the prevention and detection of crime.

“ The Resolution of the Government of the North-Western Provinces and Oudh, to which I have referred in my remarks on the Local Boards Bill, proposes an extension of local self-government in municipalities incompatible with these provisions of the present law, and this Bill has been drawn up to give effect to those proposals by substituting for Act XV of 1873 an enactment which will bestow upon the residents of areas in which it is in force a much larger measure of control over municipal administration than they now possess.

“ The provisions of the Bill are the result of the same consultative and deliberative measures on the part of the Local Government as those which I

have already described in my remarks on the Local Boards Bill. They are based on the inquiries of District and Divisional Officers, considered and weighed by the Provincial Committee, whose conclusions have been accepted with certain modifications by the Local Government.

“ I proceed to notice some of the more important points of the Bill, premising that the substantive provisions of Act XV of 1873 have been rarely departed from unless when it was necessary for the purpose of giving effect to the proposals of the Resolution of the 5th December, 1882, though opportunity has been taken to make the arrangement of the sections clearer, and to remedy what appeared to be defects in their wording.

“ The first chapter, which is of a preliminary character and deals with the application of the Act to fresh places and to those in which Act XV of 1873 is already in force, need not detain us; but Chapter II, on the organisation of municipal boards, is of more importance. Municipal and local boards are to consist of members partly elected and partly nominated; and I need not repeat what I have already said when asking leave to introduce the Local Boards Bill as to the reasons for preferring this system to the more logically symmetrical one of election, pure and simple.

“ The principal residents of the areas into which the Act is to be introduced are to be convened in public meeting by the Magistrate or the Deputy Commissioner, for the purpose of preparing and submitting within a definite time proposals for determining the system of representation and election to be established in the municipality. The points for their consideration are enumerated in section 9; and it is only after it has weighed the proposals of the residents on those points that the Local Government can exercise the power conferred upon it of making rules to regulate elections.

“ The provisions for the term of office of members of the board, for their resignation and removal, for filling casual vacancies among them, for the incorporation of the boards and such matters are analogous to those of the Local Boards Bill, and call for no remarks from me on this occasion.

“ The appointment of chairman is a subject which here also has given rise to considerable discussion. It must be borne in mind that, under the system of appointment of members introduced by this Act, the boards will no longer contain the strong *ex-officio* element which has hitherto formed part of municipal committees, and that in the absence of this the appointment of an efficient chairman becomes a matter of the first importance. The Provincial Committee considered that it would be a mistake to insist on the universal chairmanship of the district officer, who has, they state, hitherto been always

chairman of the board; but they went on to say 'there is a strong feeling among those interested that in municipalities of the more important kind, where large funds are raised and spent, where the responsibilities are therefore onerous, and where there are considerable cantonment settlements, such as is the case in most of the larger municipalities in these Provinces, it is very necessary to have a thoroughly reliable president, vigilant, capable and unwearied in watching the great interests at stake, and that, so far as present experience goes, such a president can only be found in the person of the district officer. It was in this view that the Native members proposed that the district officer should be *ex-officio* chairman of all municipal boards at the headquarters of districts, leaving it to outlying municipalities to elect their own official or non-official chairmen as they pleased.' The majority of the Committee, which included all the Native members, finally recommended that, except in certain cases to be specified by Government; in which the district officer should be *ex-officio* chairman, every municipality should be permitted to elect its own chairman, who might be official or non-official, as the electors choose. This recommendation was accepted by the Lieutenant-Governor, and has been embodied in section 18 of the Bill, which allows of the election of any person as chairman, subject to the approval of the Local Government, except in municipalities exempted from the operation of this section by notification in the official Gazette.

"The rules for the appointment of vice-chairmen and for filling up casual vacancies in the offices of chairman and vice-chairman, for the appointment of joint committees, for the conduct of business, for the record of the board's proceedings, and the communications of those proceedings to the Magistrate of the district, are similar to those of the Local Boards Bill or to the present Municipal Act.

"Sections 33 and 34 give to municipal boards full powers as to the appointment of officers and servants, except the secretary, whose appointment, if an outsider, is subject to the sanction of the Commissioner, and, if a Government servant, to that Government. With boards consisting mainly of non-official members and presided over by a non-official chairman, the efficiency of their administration will depend very much on their possessing a capable secretary, and it is to provide an additional guarantee for this that the sanction of the Commissioner is required to the appointment. If the board wish for the services of a Government officer, they must, of course, obtain the sanction of Government to his being so employed.

"Chapter III—Taxation and municipal fund—is substantially the same as the corresponding sections of Act XV of 1873. The only addition made



to the taxes leviable with the sanction of the local boards is a tax on boats moored within municipal limits, which seems to have been omitted by an oversight. The sections prescribing the procedure to be adopted in imposing taxes have been re-drafted and made, it is hoped, clearer.

“ Chapter IV enumerates the powers and duties of municipal boards, and the opportunity has been taken of re-casting the provisions of Act XV on the subject, so as to exhibit the duties of the boards in their order of obligation.

“ The primary charge on the municipal fund is a police-establishment. The law on this subject is very vague. Section 34 of Act XV of 1873 runs as follows :—

‘ Every committee shall provide in the first place from its funds, for the maintenance of the police-establishment in the municipality.

‘ The municipal police shall be appointed under such Act of the Governor General in Council as may be applicable to the town, and their number shall be fixed by the committee, in consultation with the Inspector General of Police, subject to the final decision of the Local Government.’

“ The effect of this section has been to throw upon municipalities the charges for police used not only for municipal purposes, but for the prevention and detection of crime. The conclusions of the Local Government on the subject are given in the 17th paragraph of the Resolution of the 5th of December, which runs as follows :—

‘ 17. The first of the questions to be considered is the extent to which municipal funds may fairly be relieved of police-charges, and the method of adjusting the charges for which they are fairly liable. The question was discussed by the Provincial Committee, and the unanimous conclusion of the Committee is stated in the 27th paragraph of their report :—

“ The preservation of peace and the prosecution and detection of crime are duties for which municipal revenues can hardly be said to be fairly liable, as these duties seem to devolve more equitably on the central Government of the country than on the scattered municipal towns. But the cost of watch and ward, including under this term such additional duties of a miscellaneous kind (*e.g.*, the enforcement of sanitary rules and the regulation of intra-municipal traffic) as clearly appertain to municipal police, appears to be *the* one of all others that can with most fairness and propriety be debited to municipal funds, and paid for by the people whose interests and property are the immediate objects of the guardianship of the *chaukidari* force.”

‘ The conclusion is supported by the analogy of small towns under Act XX of 1856 and of rural villages, where the watchmen are paid, not from the general revenues of the country, but from funds raised locally,—in the former by a house-tax levied for the purpose under the Act, in the latter by the local cess levied from landholders along with the land-revenue under Act III of 1878. The principle stated by the Committee

appears incontrovertible. For since the inhabitants of small towns and landholders in villages, in accordance with the long-established custom and law of the country, are required to pay for the services of the watchmen who remain on watch at night, who report crime, and who are empowered to challenge and arrest thieves and persons carrying suspicious property within their beats, there is no reason why the inhabitants of the larger towns (in many of which Act XX of 1856 was formerly in force) should, merely through the transformation of the town into a municipality, be altogether exempted from the charge. It is true that many municipalities have, in addition to the legitimate cost for watch and ward, been required to share the cost of the Provincial police employed within their limits; but this arrangement, which is manifestly unfair, will be cancelled; and it now remains only to determine how the legitimate charge for watch and ward is to be computed and adjusted. In a few municipalities, the town watchmen as a distinct body have been abolished, their places being taken by regular police, who form one force, and are paid on the same scale, with the district police stationed within the municipality; while in the majority of the municipalities the town watchmen form a separate body, wear a distinctive uniform, and, not being liable for service outside their own town, are paid, like the watchmen, in small towns and villages, at lower rates than the regular police. The Lieutenant-Governor and Chief Commissioner prefers the latter system, because it marks off a separate body of men for municipal service; but he directs that the question be considered by municipal boards in consultation with the Magistrate of the district and the Inspector General of Police, and that each board be left to decide which system it will adopt.\*

“ These conclusions have been embodied in sections 44-48 of the Bill.

“ The sections of Act XV of 1873 on nuisances have been re-cast so as to throw together all the provisions respecting the jurisdiction of the board, and to bring them into harmony with the Penal Code and the new Code of Criminal Procedure.

“ The control sections in Chapter V are similar to those in the Local Boards Bill, and I need not weary the Council by repeating the reasons for their adoption. They fall short in some respects of the powers given by Act XV of 1873 to the Local Government to cancel, suspend or limit any of the acts, proceedings, bye-laws or rules of any committee, but provide otherwise for the occurrence of default, excess or abuse of powers, as, *e.g.*, by the supersession of the board in certain extreme cases—a penalty to which existing municipalities are not legally liable.

“ Ample powers are given to the Local Government under section 60 to frame forms and to make rules on matters connected with their business, to which the boards will be bound to adhere.

“ Chapter VI contains provisions on miscellaneous matters taken generally from the existing Act.

“ Chapter VII empowers the Local Government to exempt municipalities for the operation of the provisions of the Act respecting election.

The reasons for this latter provision will be found in those diversities of race, habits, modes of thought and civilization which are to be found in the wide territories and vast populations under the sway of His Honour the Lieutenant-Governor and Chief Commissioner on which I have touched in my observations on the Local Boards Bill.

“ Section 68 finally enables the Local Government to withdraw any local area, with the previous sanction of the Governor General in Council, from the operation of this Act or of Act XV of 1873. Experience has shown that the present Municipal Act has sometimes been put in force in small towns where there were no materials for local self-government, no intelligent non-official agency, and where municipal administration, with the taxation that necessarily follows in its train, was unpopular and uncalled for. It is not to be expected that such cases will not occasionally occur again, and changes of circumstances in the progress of years may, in respect of certain towns, bring about the same result. It is expedient to provide at once a remedy which may be legally applied when such conditions manifest themselves. The section has been framed with this object; but, as the withdrawal of a privilege once conferred is open to a more invidious construction than the withholding of that privilege in the first instance, the exercise of the power by the Local Government is made subject to the previous sanction of the Governor General in Council. By this limitation it is intended to secure for the proposal full consideration from more than one point of view.”

The Motion was put and agreed to.

The Hon'ble MR. QUINTON also introduced the Bill.

The Hon'ble MR. QUINTON also moved that the Bill and Statement of Objects and Reasons be published in the *Gazette of India*, and in the *North-Western Provinces and Oudh Government Gazette* in English and in such other languages as the Local Government might think fit.

The Motion was put and agreed to.

The Council adjourned on Thursday, the 17th May, 1883.

D. FITZPATRICK,  
Secretary to the Government of India,  
Legislative Department.

SIMLA;

The 14th May, 1883.